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E.I. du Pont de Nemours and Company FIFRA Settlement

WASHINGTON – On September 15, 2014, EPA filed a Consent Agreement and Final Order (CAFO) which simultaneously commences and resolves an administrative proceeding against E.I. du Pont de Nemours and Company (DuPont) for alleged violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The CAFO alleges that DuPont violated FIFRA by selling or distributing the misbranded pesticide product -- DuPont Imprelis™ Herbicide -- on 320 occasions in 2010 and 2011 and by failing to timely submit 18 field trial study reports to EPA indicating potential adverse effects from the use of Imprelis. DuPont has agreed to pay \$1.853 million in civil penalties to settle the alleged violations.

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Background

DuPont is the registrant for the conditionally registered pesticide product, Imprelis Herbicide with EPA Registration No. 352-793. The active ingredient is aminocyclopyrachlor (CASRN 858956-35-1).

Starting in June 2011, EPA began receiving complaints from state pesticide agencies regarding evergreen damage related to the use of Imprelis. To date, DuPont has submitted over 7,000 adverse incident reports involving damage (including death) to non-target trees – primarily Norway spruce and white pine – related to the application of Imprelis. Test data from DuPont has confirmed certain coniferous trees, including Norway spruce and balsam fir, as susceptible to being damaged or killed by the application of Imprelis.

In August 2011, EPA issued a Stop Sale, Use or Removal Order to DuPont, prohibiting the distribution, sale, movement or removal of Imprelis products under the ownership, control, or custody of DuPont without EPA's written approval. In September 2011, EPA, with consent from DuPont, amended the registration of Imprelis to, among other things, prohibit the sale, distribution or marketing of Imprelis absent action by EPA. The registration expired on September 8, 2014.

Alleged [Settled] Violations

In the CAFO, EPA alleges that from October 2010 through June 2011, DuPont distributed or sold Imprelis on 320 occasions with labeling that did not include directions for use and/or warning or caution statements adequate to protect non-target terrestrial plants, thus resulting in a pesticide product that was misbranded under sections 2(q)(1)(F) and/or (G) of FIFRA. DuPont's sales or distributions of the misbranded pesticide product Imprelis are unlawful acts under FIFRA section 12(a)(1)(E).

In the CAFO, EPA also alleges that DuPont failed to timely submit eighteen field trial study reports to EPA indicating potential adverse effects from the use of Imprelis as required by FIFRA section 6(a)(2) and 40 CFR part 159, subpart D. DuPont's failures to report are unlawful acts under FIFRA sections 12(a)(2)(B)(ii) and 12(a)(2)(N).

Pesticide registrants such as DuPont who violate FIFRA are subject to maximum civil penalty of \$7,500 for each offense per FIFRA section 14(a)(1), as amended. In determining an appropriate civil penalty amount, FIFRA section 14(a)(4) requires that EPA consider the appropriateness of such penalty to the size of the violator's business, the effect of the penalty on the violator's ability to continue in business, and the gravity of the violation.

Environmental Effects

DuPont's Imprelis Herbicide was conditionally registered for use to control broadleaf weeds, such as dandelions, clover, thistle, plantains, and ground ivy, and was marketed by DuPont for lawn and turf applications on residential and commercial lawns, golf courses, sod farms, schools, parks, and athletic fields. EPA has received reports of severe damage to evergreens (especially Norway spruce and white pine) and other desirable trees related to the use of Imprelis starting in Indiana, Illinois, Michigan, Minnesota, Ohio and Wisconsin. It was reported in several newspapers that DuPont received over 30,000 claims for compensation by homeowners, landscapers, golf courses, and other affected entities with crop damage from the use of Imprelis. In 2013, Dupont reached a settlement with representative plaintiffs in a class action lawsuit in federal court in Pennsylvania.

Overview of Company

DuPont, along with its subsidiaries, is a global company offering a wide range of products and services in agriculture. DuPont's Imprelis Herbicide was approved by the EPA in August 2010 for use as a post-emergent broadleaf weed control. It was distributed and sold in 1 gallon, 2.5 gallon and 4.5 fl. oz. size containers, primarily to pest control professionals servicing the lawn, golf, turf and weed control sectors from New Jersey to Wisconsin. DuPont's Imprelis is registered for use in all but two states (California and New York), Washington, D.C., and Puerto Rico.

For more information, contact

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